## FINDINGS OF FACT AND CONCLUSIONS OF LAW

. . . . . . . . . . . .

Petitioner

The Petitioner herein requests variances to permit an open projection (deck) into the allowable yard area with rear yard setbacks of 5 feet and 1 feet in lieu of the required 7.5 feet and 11.25 feet, respectively; a window to property line setback of 10 feet in lieu of the required 15 feet; and to amend the First Amended Partial Development Plan of Hunt Ridge, all as more particularly described in Petitioner's Exhibit 1.

The Petitioner appeared, testified, and was represented by Jeffrey L. Forman, Esquire. There were no Ir restants.

Testimony indicated that the subject property, known as 21 Oak Tree Court, or Lot 18 of Hunt Ridge, is zoned D.R. 3.5 and is improved with a single family dwelling and attached deck area which is the subject matter of this Petition. Said dwelling was the model home for the Hunt kidge development and had existed on the property for approximately 5 years prior to Petitioner's purchase. Petitioner purchased the subject property approximately 5 years ago at which time the deck area was already in place. Recently, Petitioner applied for refinancing of the property at which time it was determined that the deck encroached the adjoining local open space area owned by Baltimore County. In an attempt to resolve this discrepancy, Petitioner has negotiated with the County to swap 359 sq.ft., as depicted in Petitioner's Exhibit 1, so that all the improvements on Lot

PETITION FOR ZONING VARIANCE

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a

Variance from Section 301,1 to allow an open projection ideak into the .....

allowable yard gree with setbacks of 5' & 1' in lieu of the required 7.5' .... & 11.25' respectively AND from V.B.6.B (CMDP) to allow a window to property line setback of 10' in lieu of the 15' required and to amend.....

the First Amended Partial Development Plan of Hunt Ridge, of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

Legal Owner(s):

ORDERED By The Zoning Commissioner of Baltimore County, this \_\_\_\_\_ day

under the penalties of perjury, that I/we are the legal owner(s) of the property

Deveno ling

21 OAK TREE COURT 561-1243

Timoulum, mb 21093

19 27, that the subject matter of this petition be advertised, as

The state of the s

Name, address and phone number of legal owner, con-

406 W. Pennsylvania Avenue

Towson, Maryland 21204 ---- 823-5700

tract purchaser or representative to be contacted

which is the subject of this Petition.

Hassein Tavassolie

(Type or Print Name)

-See Attached-

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

18 are on Petitioner's property. Testimony indicated that the granting of the variances will not result in any detriment to the health, safety or general welfare of the surrounding community as no changes will be made other than those which have existed in excess of 5 years.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily

> 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would gi substantial relief; and

> 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 3th day of August, 1989 that the Petition for Zoning Variance to permit to permit an open projection (deck) into the of the required 7.5 feet a d 11.25 feet, respectively; a window to property line setback of 10 feet in lieu of the required 15 feet; and to amend the First Amended Partial Development Plan of Hunt Ridgs, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

1) The Petilioner is hereby made aware that proceeding at this time i at his own risk until such time as the 30-day appellat process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitio or would be required to return, and be responsible or ret . 7, said property to its

tioner's Exhibit 2.

allowable yard area with rear yard setbacks of 5 feet and 1 feet in lieu

original condition.

2) The variances anted herein a. Inditioned upon Petitioner's complence with all Zoni. Plans Advisory Committee comments ich have been inco prated into the file, including but not limited to, the of Recreation and rks as set forth in the comments dated September 12, 988, identified herein

> 1 MW , tenewice ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

The petitioners seek this variance to avoid undue hardship and practical difficulties. The facts are that the petitioners bought the home in question from the developer who had used the bought the nome in question from the developer who had used the home as a sales model home for 5 years. At the time the petitioners bought the home, there was a deck and hot tub already in the times bought the home, there was a deck and hot tub already in place. It turns out that the deck encroaches onto the local open prace. It turns out that the deck entroaches onto the rotal open space in the rear, and one portion of the deck is approximately 6 feet from the side property line.

Baltimore County has agreed to do a land swap with the peti-tioners to allow the deck to remain in its existing location. The land swap will provide the petitioners with title to enough of the local open space such that the deck will be on their property, with the County receiving title to a reciprocal amount of land from the opposite end of the property. The matter is being resolved by the proposed land swap and amendment to the final development plan of Hunt Ridge via a technical correction, to the development plan of munt kinge via a technical collection, to a satisfaction of both the County and the petitioners. However, the existing location of the deck will still require a variance from the normal setback requirements.

The condition which gives rise to this variance petition was not a result of the petitioners' own actions, rather, the house and deck were in the configuration that they are now at the time the petitioners bought the property. Strict compliance with the setback requirements would be unduly burdensome because the petitioners would have to remove both a substantial amount of decking and the built in hot tub which has a permanent concrete foundation for support and permanent plumbing and electrical connections. In addition, because the house was built as close to the setback lines as it was, if the variance is not granted, it is highly unlikely that the petitioners would be able to have any deck at all, notwithstanding the fact that decks are permitted structures. Finally, strict compliance with the setback requirements in this case would result in a significant loss of value of the petitioners' property because the petitioners bought the the petitioners property because the petitioners brught the house in good faith at a value which was significantly influenced house in good raith at a value which was significantly influenced by the existence of a deck and hot tub. The grant of this vari-ance would not do any injustice to the other property owners in the district and, in fact, will preserve the existing property values.

> CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORS COUNTY

Tourson,	Maryland \$90-63-A
District 8th  Posted for: Variance	Date of Posting August 8 - 8,
Petitioner: Hassein Farassolie Location of property: Costerly turning	a Dah Jan Out Litt
21 Oak Tree Court	<i>V</i>
Location of Signer Un front of 21	Oak Tree Court
Remarks:	

7427 Harlord Road Baltimore, Maryland 21234

(301) 444-4312

Alexander P. Ratych, Pret. U.S. Dichard J Ininiove Pf Keynt L. Quelet, P.F. Parit K. Leanars, P.L. DESCRIPTION OF PROPERTY Past A Balych 21 OAK TREE COURT, LOT 1 , SECTION ONE "HUNT RIDGE" 8TH ELECTION DISTRICT, B LTIMORE COUNTY, MARYLAND

BEGINNING FOR THE SAME, at a point on the Easterly termination of Oak Tree Court and on the division line between Lots 17 and 18 a:; shown on the Second Amended Plat of Section One "Hunt Ridge" recorded among the Land Records of Baltimore County Plat Book E.H.K. Jr. 45, folio 86 and being Lot 18, Block G shown on said plat. Also known as 21 Oak Tree Court in the 8th Election District of Baltimore County. 5/25/89

5216 Hailord Road Baltimore, Maryland 21214

(301) 444 4326

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines
Zoning Commissioner

August 30, 1989



Jeffrey L. Forman, Esquire 406 W. Pennsylvania Avenue Towson, Maryland 21204

RE: PETITION FOR ZONING VARIANCE E/End of Oak Tree Court, on the division line of Lots 17 and 18 (21 Cak Tree Court)

8th Election District - 3rd Councilmanic District Hassein Tavassolie - Petitioner Case No. 90-63-A

Dear Mr. Forman:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

Q MNG townic ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

cc: Department of Recreation & Parks People's Counsel

Baltimore County Department of Recreation & Parks Towson, Maryland 21204 494-3817 494-3058 (Deaf/TDD) Robert R. Staab



September 12, 1988



Dennis F. Lasmussen

406 W. Pennsylvania Avenue Towson, Maryland 21204

RE: Tavassolie Property Encroachment

Dear Mr. Forman:

Mr. Jeffrey L. Forman

Kauffman and Forman, P.A.

Office of Law

After careful consideration, the following is in response to your proposal of a land exchange between your client and Baltimore County Department of Recreation and Parks to resolve the encroachment issue as identified in our letter to Mr. Tavassolie dated May 24, 1988.

Your request for a land transfer will be allowed as an option with the following conditions:

- 1. Any and all work involving the land transfer will be at no cost
- to Baltimore County.
- 2. Mr. Tavassolie will be responsible for contacting the Baltimore County Bureau of Land Acquisition to request appraisals, title
- searches, etc. as may be required by the Bureau of Land Acquisition. 3. A 1"-50' plan showing the two areas to be traded must be submitted
- to and approved by the Department prior to title transfer. 4. All Baltimore County zoning regulations must be addressed.

As stated in our original letter, the option of removing the deck from the existing Local Open Space still remains viable. Please let us know your client's intentions at your earliest convenience.

If you have any further questions, you may contact Mr. Pat Kincer at 494-3824.

Sincerely,

Assistant Director/Facility Development and Conservation

cc: Albert R. Svehla, Jr. Facilities Planner Shirley Murphy - Land Acquisition 454-3252

Contract Purchaser:

(Type or Print Name)

Attorney for Petitioner:

Jeffrey L. Forman

(Type or Print Name)

yeary Jonner

Attorney's Telephone No.: 8235700

Baltimore County Zening Commissioner

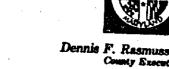
Cffice of Planning & Zoning
Towson, Maryland 21204 (301) 887-3353

J. Robert Haines Zoning Commissioner

DATE 8/7/89

Hassein Tavassolie 21 Dak Tree Court Timonium, Maryland 21093

Re: Petition for Zoning Variance CASE NUMBER: 90-63-A Easterly termination of Oak Tree Court, Lot #18 21 Oak Tree Court 5th Election District - 3rd Councilmanic



Petitioner(s): Hassein Tavassolie HEARING SCHEDULED: FRIDAY, AUGUST 25, 1989 at 2:00 p.m.

Dear Petitioner:

Please be advised that \$129.81 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S)

RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE.

DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY

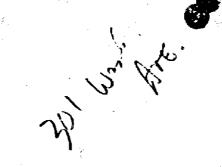
UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

energy a post set(s), there BALTIMORE COUNTY, MARYLAND unt for each such set OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT B 202\*\*\*\*\* 12581: VALIDATION OR SIGNATURE OF CASHIEF

Baltimore County Department of Recreation & Parks Towson, Maryland 21204 494-3817 494-3058 (Deat/TDI))

Robert R. Staab



September 12, 1988

Mr. Jeffrey L. Forman Kauffman and Forman, P.A. Dennis F. Rasmussen
County Executive 406 W. Pennsylvania Avenue

RE: Tavassolie Property Encroachment

Dear Mr. Forman:

Towson, Maryland 21204

After careful consideration, the following is in response to your proposal of a land exchange between your client and Baltimore County Department of Recreation and Parks to resolve the encroachment issue as identified in our letter to Mr. Tavassolie dated May 24, 1988.

Your request for land transfer will be allowed as an option with the following conditions:

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- searches, etc. as may be required by the Bureau of Land Acquisition. 3. A 1"-50' plan showing the two areas to be traded must be submitted
- to and approved by the Department prior to title transfer. 4. All Baltimore County zoning regulations must be addressed.

As stated in our original letter, the option of removing the deck from the existing Local Open Space still remains viable. Please let us know your client's intentions at your earliest convenience.

If you have any further questions, you may contact Kr. Pat Kincer at

Sincerely,

Assistant Director/Figility Development and Conservation

cc: Albert R. Svehla, Jr. Facilities Planner Shirley Murphy - Land Acquisition 694-3252 Office of Law

LOIS Brooks. 494-3284 - Contyolb. 3 to from Run 300

Baltimore County Department of Public Works Bureau of Traffic Engineering Courts Building, Suite 405 Towson, Maryland 21204 (301) 887-3554

Mr. J. Robert Haines Zoning Commissioner County Office Building Towson, MD 21204

July 24, 1989

ZONING OFFICE

The Bureau of Traffic Engineering has no comments for items number 493, 511, 513, 516, 517, 519, 520, 521, 522, 524, 528, 529, 530, 531, 532,

Very truly yours,

Traffic Engineer Associate II

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

J.Robert Haines, Zoning Commissioner

June 12, 1989

Albert R. Svehla, Jr. Recreation and Parks

SUBJECT\_\_\_\_Issue No. 521: (Hassein Tavassolie)

We would like to note, in regards to this particular zoning item, that the deck referred to us is in fact on Baltimore County Local Open Space. We will, however, support the various being requested by Mr. Tavassolie since it is part of a proposed land transfer between him and the Department of Recreation and Parks.

We do not wish to waive any rights which we do have to the Local Open Space. However, we are trying to negotiate an acceptable settlement with the petitioner.

Facilities Planner

ARS:ssm cc: Walter P. Kincer, Facilities Coordinator

CPS-008

CERTIFICATE OF PUBLICATION

TOWSON, MD., Layers 3 ... 1989 THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., orde in each of \_\_\_\_ successive weeks, the first publication appearing on August 3. 19 89

> THE JEFFERSONIAN TOWSON TIMES,

5. Zehe Orling

Publisher PO 15127 nea M 31066

Baltimore County Fire Department 800 York Road Towson, Maryland 21204-2586 (301) 887-4500

Location:

Item No.: 521

Paul H. Reincke

NOTICE OF NEARGINE

The Zortra Committees of

Petition for Zoning Variance
Case number: 90-63-A
Easterly termination of Calc
Tree Court, Lot #18
21 Oak Tree Court
8th Election District
3rd Councilmanic
Petitioner(a):
Hassein Terescolle

Vertance: To allow an open projection (deck) into the ellow-sable yerd area with selbecks of S R. and 1 ft. in lieu of the require 7.5 ft. and 11.25 ft. respective /

7.5 ft. and 11.25 ft. respective / and to allow a window to property the setback of 10 ft. in lieu of the 15 ft. required and to amend the First Amended Partial Development Plan of Hunt Ridge.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a citey of the issuence of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or precented at the hearing.

JUNE 14, 1989

J. Robert Haines Zoning Commissioner Office of Planning and Zoning Baltimore County Office Building Towson, MD 21204

RE: Property Owner: HASSEIN TAVASSOLIE

#21 OAK TREE COURT

Zoning Agenda: JUNE 13, 1989

Dennis F. Rasmussen County Executive

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

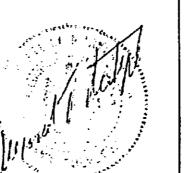
7. The Fire Prevention Bureau has no comments at this time.

JK/KER

BLOCK G' SECONO AMENDEO PLAT OF URAINAGE & SECTION ONE " HUNT RIDGE " 45/86 76°-09'-11"E - 233.27' VERWATE EASEMENT N 76.64.11.W

6 358.80'49 W 17.65 11.924.5 H'02 10119 EXISTING DWELLING

OWNER: Hassein Tavassolie



5-25 1967

7427 Harlard Razd • Baltimore, Maryland 21234 • (301) 444-4312

PLAT TO ACCOMPANY DESCRIPTION FOR EXCHANGE OF PROPERTY

AND ZONING VARIANCE

21 OAK TREE COURT

LUTIO, SECTION ONE "NUNT RIGGE" 8th ELECTION DISTRICT BALTIMORE COUNTY, MO. 5 | 25 | 89

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

J. Robert Haines Zoning Commissioner

DATE: August 16, 1989

Pat Keller, Deputy Director Office of Planning and Zoning

Hassein Travassolie, Item 521 SUBJECT: Zoning Petition No. 90-63-A

The petitioner requests a variance to permit a deck with less than the required setback and to amend the First Partial development Plan. In reference to this request, staff offers no comment.

PK/JL/sf

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: June 22, 1989 FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting for June 13, 1989

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 493, 514, 517, 520, 521; 522, 524, 528, 529, 531, and 532.

For Item 511, the minimum panhandle width for one lot is 20 feet, not 10 feet as shown on the plan.

For Items 513, 516 and 533 the previous County Review Group Comments still apply.

For Item 519, all lots must have in-fee frontage to a public road.

For Item 530, comments are attached

ROBERT W. BOWLING, P.E., Chief

Developers Engineering Division

RWB:s

Encl.